

1 AN ACT

2 relating to textbooks, electronic textbooks, instructional  
3 material, and technological equipment in public schools.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter A, Chapter 31, Education Code, is  
6 amended by adding Section 31.004 to read as follows:

7 Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS,  
8 ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school  
9 district and open-enrollment charter school shall annually certify  
10 to the State Board of Education and the commissioner that, for each  
11 subject in the foundation curriculum and each grade level, the  
12 district provides each student with textbooks, electronic  
13 textbooks, or instructional materials that cover all elements of  
14 the essential knowledge and skills adopted by the State Board of  
15 Education for that subject and grade level.

16 SECTION 2. Section 31.021, Education Code, is amended by  
17 adding Subsection (f) to read as follows:

18 (f) The state textbook fund may be used to purchase  
19 technological equipment necessary to support the use of electronic  
20 textbooks or instructional material included on the list adopted  
21 under Section 31.0231 or any textbook or material approved by the  
22 State Board of Education.

23 SECTION 3. Section 31.022, Education Code, is amended by  
24 adding Subsection (f) to read as follows:

1       (f) The board shall amend any request for production issued  
2 for the purchase of textbooks to conform to the textbook funding  
3 levels provided by the General Appropriations Act for the year of  
4 implementation.

5       SECTION 4. Subchapter B, Chapter 31, Education Code, is  
6 amended by adding Section 31.0231 to read as follows:

7       Sec. 31.0231. ELECTRONIC TEXTBOOK AND INSTRUCTIONAL  
8 MATERIAL LIST. (a) The commissioner shall adopt a list of:

9               (1) electronic textbooks; and

10              (2) instructional material that conveys information  
11 to the student or otherwise contributes to the learning process,  
12 including tools, models, and investigative materials designed for  
13 use as part of the foundation curriculum for science in  
14 kindergarten through grade five.

15       (b) A school district may select an electronic textbook or  
16 instructional material on the list adopted under Subsection (a) to  
17 be funded by the state textbook fund under Section 31.021.

18       (c) Before the commissioner places an electronic textbook  
19 or instructional material on the list adopted under Subsection (a),  
20 the State Board of Education must be given an opportunity to comment  
21 on the electronic textbook or instructional material. An  
22 electronic textbook or instructional material placed on the list  
23 adopted under Subsection (a):

24              (1) must be reviewed and recommended to the  
25 commissioner by a panel of recognized experts in the subject area of  
26 the electronic textbook or instructional material and experts in  
27 education technology;

1           (2) must satisfy criteria adopted for the purpose by  
2 commissioner rule; and

3           (3) must meet the National Instructional Materials  
4 Accessibility Standard, to the extent practicable as determined by  
5 the commissioner.

6           (d) The criteria adopted under Subsection (c)(2) must:

7           (1) include evidence of alignment with current  
8 research in the subject for which the electronic textbook or  
9 instructional material is intended to be used;

10           (2) include coverage of the essential knowledge and  
11 skills identified under Section 28.002 for the subject for which  
12 the electronic textbook or instructional material is intended to be  
13 used and identify:

14           (A) each of the essential knowledge and skills  
15 for the subject and grade level or levels covered by the electronic  
16 textbook or instructional material; and

17           (B) the percentage of the essential knowledge and  
18 skills for the subject and grade level or levels covered by the  
19 electronic textbook or instructional material; and

20           (3) include appropriate training for teachers.

21           (e) The commissioner shall update, as necessary, the list  
22 adopted under Subsection (a). Before the commissioner places an  
23 electronic textbook or instructional material on the updated list,  
24 the requirements of Subsection (c) must be met. Before the  
25 commissioner removes an electronic textbook or instructional  
26 material from the updated list, the removal must be recommended by a  
27 panel of recognized experts in the subject area of the electronic

1 textbook or instructional material and experts in education  
2 technology.

3 (f) After notice to the commissioner explaining in detail  
4 the changes, the provider of an electronic textbook or  
5 instructional material on the list adopted under Subsection (a) may  
6 update the navigational features or management system related to  
7 the electronic textbook or instructional material.

8 (g) After notice to the commissioner and a review by the  
9 commissioner, the provider of an electronic textbook or  
10 instructional material on the list adopted under Subsection (a) may  
11 update the content of the electronic textbook or instructional  
12 material if needed to accurately reflect current knowledge or  
13 information.

14 (h) The commissioner shall adopt rules as necessary to  
15 implement this section. The rules must:

16 (1) be consistent with Section 31.151 regarding the  
17 duties of publishers and manufacturers, as appropriate, and the  
18 imposition of a reasonable administrative penalty; and

19 (2) require public notice of an opportunity for the  
20 submission of an electronic textbook or instructional material.

21 SECTION 5. Section 31.101, Education Code, is amended by  
22 amending Subsections (a) and (c) and adding Subsections (b-1),  
23 (c-1), and (e) to read as follows:

24 (a) Each year, during a period established by the State  
25 Board of Education, the board of trustees of each school district  
26 and the governing body of each open-enrollment charter school  
27 shall:

1           (1) for a subject in the foundation curriculum, notify  
2 the State Board of Education of the textbooks selected by the board  
3 of trustees or governing body for the following school year from  
4 among the textbooks on the appropriate conforming or nonconforming  
5 list, including the list adopted under Section 31.0231; or

6           (2) for a subject in the enrichment curriculum:

7           (A) notify the State Board of Education of each  
8 textbook selected by the board of trustees or governing body for the  
9 following school year from among the textbooks on the appropriate  
10 conforming or nonconforming list, including the list adopted under  
11 Section 31.0231; or

12           (B) notify the State Board of Education that the  
13 board of trustees or governing body has selected a textbook that is  
14 not on the conforming or nonconforming list.

15           **(b-1) If a school district or open-enrollment charter**  
16 **school selects for a particular subject or grade level an**  
17 **electronic textbook or instructional material on the list adopted**  
18 **under Section 31.0231, the state shall pay the district or school an**  
19 **amount equal to the cost of the electronic textbook or**  
20 **instructional material plus textbook credits under Section 31.1011**  
21 **equal to 50 percent of the difference between that cost and the**  
22 **limitation established under Section 31.025 for a textbook for that**  
23 **subject and grade level, multiplied by the number of electronic**  
24 **textbooks or instructional materials the district or school needs**  
25 **for that subject and grade level.**

26           (c) A school district or open-enrollment charter school  
27 that selects a textbook that is not on the conforming or

1 nonconforming list or that selects an electronic textbook or  
2 instructional material that is on the list adopted under Section  
3 31.0231:

4 (1) is responsible for the portion of the cost of the  
5 textbook that is not paid by the state under Subsection (b); and

6 (2) may use funds received from the state under  
7 Subsection (b) or (b-1), as applicable, [only] for purchasing the  
8 textbook, electronic textbook, or instructional material for which  
9 the funds were received or supplementing the allotment under  
10 Section 32.005 to purchase technological equipment according to  
11 rules adopted by the commissioner.

12 (c-1) Notwithstanding any other provision of this chapter,  
13 a school district or open-enrollment charter school must purchase a  
14 classroom set of textbooks adopted by the State Board of Education  
15 under Section 31.023 or 31.035 for each subject and grade level in  
16 the foundation and enrichment curriculum.

17 (e) A school district or open-enrollment charter school  
18 that selects a subscription-based electronic textbook or  
19 instructional material on the conforming list under Section 31.023  
20 or the list adopted under Section 31.0231 may cancel the  
21 subscription and subscribe to a new electronic textbook or  
22 instructional material on the conforming list under Section 31.023  
23 or the list adopted under Section 31.0231 before the end of the  
24 state contract period under Section 31.026 if:

25 (1) the district or school has used the electronic  
26 textbook or instructional material for at least one school year;  
27 and

1           (2) the agency approves the change based on a written  
2 request to the agency by the district or school that specifies the  
3 reasons for changing the electronic textbook or instructional  
4 material used by the district or school.

5           SECTION 6. Section 31.1011(c), Education Code, is amended  
6 to read as follows:

7           (c) Fifty percent of the total textbook credit of a school  
8 district or open-enrollment charter school shall be credited to the  
9 state textbook fund, and 50 percent of the credit shall be credited  
10 to the district or school to apply toward the requisition of:

11           (1) additional textbooks or electronic textbooks that  
12 are on the conforming or nonconforming list under Section 31.023 or  
13 the components of such textbooks, including any electronic  
14 components; [~~or~~]

15           (2) supplemental textbooks as provided by Section  
16 31.035;

17           (3) electronic textbooks or instructional materials  
18 on the list adopted under Section 31.0231; or

19           (4) technological equipment under Section 31.021(f).

20           SECTION 7. The heading to Section 31.152, Education Code,  
21 is amended to read as follows:

22           Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS, ELECTRONIC  
23 TEXTBOOKS, INSTRUCTIONAL MATERIALS, OR TECHNOLOGICAL EQUIPMENT.

24           SECTION 8. Sections 31.152(a) and (b), Education Code, are  
25 amended to read as follows:

26           (a) A school trustee, administrator, or teacher commits an  
27 offense if that person receives any commission or rebate on any

1 textbooks, electronic textbooks, instructional materials, or  
2 technological equipment used in the schools with which the person  
3 is associated as a trustee, administrator, or teacher.

4 (b) A school trustee, administrator, or teacher commits an  
5 offense if the person accepts a gift, favor, or service that:

6 (1) is given to the person or the person's school;

7 (2) might reasonably tend to influence a trustee,  
8 administrator, or teacher in the selection of a textbook,  
9 electronic textbook, instructional material, or technological  
10 equipment; and

11 (3) could not be lawfully purchased with funds from  
12 the state textbook fund.

13 SECTION 9. Chapter 32, Education Code, is amended by adding  
14 Subchapter H to read as follows:

15 SUBCHAPTER H. COMPUTER LENDING PILOT PROGRAM

16 Sec. 32.351. ESTABLISHMENT OF PILOT PROGRAM. The  
17 commissioner by rule shall establish a computer lending pilot  
18 program to provide computers to participating public schools that  
19 make computers available for use by students and their parents.

20 Sec. 32.352. PILOT PROGRAM ADMINISTRATION. The  
21 commissioner shall establish procedures for the administration of  
22 the pilot program, including procedures for distributing to  
23 participating public schools:

24 (1) any surplus or salvage data processing equipment  
25 available for distribution under the pilot program; or

26 (2) computers donated or purchased for that purpose  
27 with funds from any available source, including a foundation,

1 private entity, governmental entity, and institution of higher  
2 education.

3 Sec. 32.353. ELIGIBLE SCHOOLS. A public school is eligible  
4 to participate in the pilot program if:

5 (1) 50 percent or more of the students enrolled in the  
6 school are educationally disadvantaged; and

7 (2) the school operates or agrees to operate a  
8 computer lending program that:

9 (A) allows students and parents to borrow a  
10 computer;

11 (B) includes an option for students and parents  
12 to work toward owning a computer initially borrowed under the  
13 school's lending program, subject to any applicable legal  
14 restrictions regarding disposition of the computer involved;

15 (C) provides computer training for students and  
16 parents; and

17 (D) operates outside regular school hours,  
18 including operation until at least 7 p.m. on at least three days  
19 each week.

20 Sec. 32.354. ANNUAL REPORT. Not later than January 1 of  
21 each year, the commissioner shall submit a report to the  
22 legislature regarding the computer lending pilot program  
23 established under this subchapter.

24 Sec. 32.355. EXPIRATION. This subchapter expires September  
25 1, 2014.

26 SECTION 10. Section 2175.128, Government Code, is amended  
27 by adding Subsections (a-1) and (b-1) to read as follows:

1        (a-1) Notwithstanding Subsection (a), if a disposition of a  
2 state agency's surplus or salvage data processing equipment is not  
3 made under Section 2175.125 or 2175.184, the state agency shall  
4 make the equipment available to the commissioner of education for  
5 use in the computer lending pilot program established under  
6 Subchapter H, Chapter 32, Education Code. If the commissioner of  
7 education declines to take the equipment, the state agency shall  
8 transfer the equipment in accordance with Subsection (a). The  
9 state agency may not collect a fee or other reimbursement from the  
10 commissioner of education for the equipment made available under  
11 this subsection. This subsection expires September 1, 2014.

12        (b-1) Notwithstanding Subsection (b), if a disposition of  
13 the surplus or salvage data processing equipment of a state  
14 eleemosynary institution or an institution or agency of higher  
15 education is not made under other law, the institution or agency  
16 shall make the equipment available to the commissioner of education  
17 for use in the computer lending pilot program established under  
18 Subchapter H, Chapter 32, Education Code. If the commissioner of  
19 education declines to take the equipment, the institution or agency  
20 shall transfer the equipment in accordance with Subsection (b).  
21 The state eleemosynary institution or institution or agency of  
22 higher education may not collect a fee or other reimbursement from  
23 the commissioner of education for the equipment made available  
24 under this subsection. This subsection expires September 1, 2014.

25        SECTION 11. This Act takes effect immediately if it  
26 receives a vote of two-thirds of all the members elected to each  
27 house, as provided by Section 39, Article III, Texas Constitution.

H.B. No. 4294

1 If this Act does not receive the vote necessary for immediate  
2 effect, this Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 4294 was passed by the House on May 4, 2009, by the following vote: Yeas 129, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4294 on May 29, 2009, by the following vote: Yeas 118, Nays 24, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 4294 was passed by the Senate, with amendments, on May 28, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor